Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 85-2168 (6)

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

JAMES N. FLEMING,

Petitioner,

v.

W. BEDFORD MOORE, III,

Respondent.

RESPONSE TO MOTION FOR LEAVE TO FILE NAACP AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER'S BRIEF FOR WRIT OF CERTIORARI

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6 P

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Respondent, W. Bedford Moore, III, objects to the motion for leave to file amicus curiae brief filed by the National Association for the Advancement of Colored People for the following reasons:

1. The issue raised and discussed in the amicus brief was not an issue before the Virginia Supreme Court when it denied Fleming's petition for appeal on March 7, 1986, from which Fleming filed his petition for certiorari. The issue before the Virginia Supreme Court was whether the trial court was in compliance with an earlier Supreme Court order requiring remittitur. Any issues other than those dealing with the remittitur of a state court judgment are not properly before this Court.

2. The issue raised in the NAACP amicus brief was raised in this Court by Fleming in Record No. 84-1740, which petition was denied certiorari. Fleming v. Moore, 87 L.Ed.2d 643 (1985).

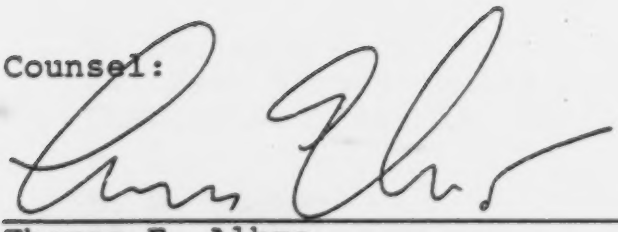
WHEREFORE, Respondent W. Bedford Moore, III, respectfully requests that

the motion for leave to file amicus curiae brief by the National Association for the Advancement of Colored People in support of petitioner's brief for Writ of Certiorari be denied.

W. BEDFORD MOORE, III

By Counsel

Counsel:



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate photocopy of the foregoing Response was mailed this 12th day of August, 1986, to the following counsel of record in this case:

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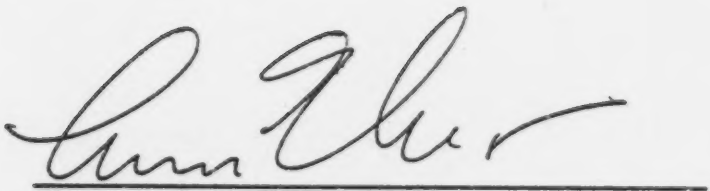

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